



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	HB0590	Title:	Define domestic partners and establish benefits
Primary Sponsor:	Wilmer, Franke	Status:	As Introduced

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|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
State Special Revenue	\$8,010	\$2,695	\$1,960	\$1,655
Revenue:				
General Fund	(\$68,709)	(\$127,994)	(\$160,742)	(\$182,601)
State Special Revenue	\$8,010	\$2,695	\$1,960	\$1,655
Net Impact-General Fund Balance:	<u>(\$68,709)</u>	<u>(\$127,994)</u>	<u>(\$160,742)</u>	<u>(\$182,601)</u>

Description of fiscal impact: HB 590 creates a Domestic Partnership registry to be administered by the Department of Public Health and Human Services (DPHHS) and provides for establishment of domestic partnerships in Montana. Operational expenses will be funded by fees paid for registration. The Department of Revenue would be required to allow domestic partners the same options for filing income tax returns as allowed for married couples. Joint tax filing would reduce income tax liability for some couples who are currently required to file individually now. This would reduce general fund revenue by approximately \$70,000 in FY 2010, increasing to about \$180,000 in FY2 013.

FISCAL ANALYSIS

Assumptions:

Department of Public Health and Human Services (DPHHS)

- Section 2 of this bill requires DPHHS, Support and Vital Record Bureau, to prescribe, develop and provide domestic partnership forms and termination of domestic partnership forms to all Clerk of District courts.
- Section 6 requires DPHHS to develop a domestic partner registry, return two certified copies of the filed declaration to the domestic partners, and to adopt a fee by rule for the filing and certified copies of the declaration.

3. Based on other states that have enacted domestic partnership, Vital Records estimates the number of domestic partnership declarations and terminations to be as follows:

Fiscal Year	Declarations	Terminations	Total	Cumulative Partnerships
2010	1,700	10	1,710	1,690
2011	1,400	15	1,415	3,075
2012	700	35	735	3,740
2013	450	35	485	4,155

4. This bill requires two forms to be developed and printed: the Declaration of Domestic Partnership and an Application for the Termination of a Registered Domestic Partnership. The estimated cost to print the forms is \$0.17 per form.
5. Assuming there will be forms distributed that will not be used as well as multiple forms needed if a couple makes errors when filling, we estimate the following forms will need to be printed for 56 district courts and 7 tribal courts as follows:

Fiscal Year	Declarations	Terminations	Total Forms	Cost per form	Total Cost
2010	2,000	100	2,100	\$0.17	\$357
2011	1,700	100	1,800	\$0.17	\$306
2012	1,000	100	1,100	\$0.17	\$187
2013	500	100	600	\$0.17	\$102

6. The estimated cost to distribute both forms in packets to 56 district courts and 7 tribal courts at a cost per distribution of \$4.40 is \$277 (63×\$4.40) per fiscal year.
7. It is estimated that the department will need to mail 1,000 letters with prepaid return envelopes requesting additional information or to clarify data provided on the application or termination form at a cost of \$0.88 (\$0.44 for letter + \$0.44 for prepaid envelope), for a total of \$880 per fiscal year.
8. Based on the number of Domestic Partnerships in each fiscal year, the cost to mail two certificates to the partners is as follows:

Fiscal Year	Declarations	Certificates	Mailing Cost	Total Cost
2010	1,700	3,400	\$0.44	\$1,496
2011	1,400	2,800	\$0.44	\$1,232
2012	700	1,400	\$0.44	\$616
2013	450	900	\$0.44	\$396

9. Initially, this will be a simple indexing registry. However, to make registry maintenance efficient and to ensure accuracy, the electronic marriage registration system will be modified to capture the domestic partnership. It is estimated this modification would cost \$5,000 in FY 2010.
10. Fees for registration of a Domestic Partnership will be set in the rule making process and would cover the maintenance and administration costs of the registry. It is anticipated that the initial influx of registrations in the first year would cover the cost for system modification addressed in Assumption #9.

Department of Revenue

11. This bill would require the Department of Revenue to treat domestic partners as if they were married for tax purposes (see Technical Notes). Under current law, marital status only affects income tax. Married couples are allowed to file separate or joint returns. Married couples filing separate returns are taxed as if

they were single individuals, so the only effect on revenue would come from allowing domestic partners to file a joint return.

12. In 2007, 44% of married couples who filed tax returns filed joint returns. It is assumed that the same percentage of domestic partners would choose to file joint returns.
13. In general, a couple has lower tax with a joint return when one partner would have little or no tax liability filing separately. Filing a joint return allows both spouses' exemptions to be offset against the income of the spouse who owes tax. Filing a joint return also allows losses that one spouse has to be offset against the other spouse's income. This fiscal note estimates the income tax reduction from each domestic partnership as the value of a personal exemption multiplied by the marginal tax rate for a typical couple who file a joint return.
14. The average marginal tax rate for couples who filed joint returns for 2007 is 4.4%. The value of a personal exemption is adjusted each year for inflation. The following table shows the value of exemptions assumed in the HJR2 income tax revenue estimate and the corresponding average tax reduction per joint return for 2009 through 2012:

Year	Personal Exemption	Marginal Tax Rate	Tax Reduction
2009	\$2,100	4.4%	\$92
2010	\$2,150	4.4%	\$95
2011	\$2,220	4.4%	\$98
2012	\$2,270	4.4%	\$100

15. Using the cumulative number of partnerships from Assumption #3, the joint returns percentage from Assumption #12, and average taxes reduction for joint returns in Assumption #14 results in a general income tax revenue decrease as shown in the following table:

Year	Cumulative Partnerships	Joint Filer Rate	Joint Returns	Tax Reduction	Total Tax Reduction
2009	1690	44%	744	\$92	\$68,709
2010	3075	44%	1353	\$95	\$127,994
2011	3740	44%	1646	\$98	\$160,742
2012	4155	44%	1828	\$100	\$182,601

16. This bill would be effective October 1, 2009. Reductions to general fund revenue would begin when domestic partners file their first joint returns, in FY 2010. Each year's tax reduction in Assumption 15 will result in the same reduction in general fund revenue in the next-higher-numbered fiscal year.
17. Changes to income tax returns and instructions required by this law would be made as part of the annual update process with no additional monetary costs.

Department of Administration

18. The State Employee Benefit Plan currently provides coverage to domestic partners if at least one partner is otherwise eligible as an employee or retiree. (In response to Supreme Court ruling in *Snetsinger v. Montana University System*.)
19. The State Plan would change from using existing Declaration of Domestic Partner Relationship and Dissolution of Domestic Partner Relationship forms to requesting copies of the forms executed under this bill as documentation of eligibility for benefits.
20. No other changes would be required for administration of eligibility.
21. This bill has no fiscal impact to the State Plan.

	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>				
Department of Health & Human Services				
<u>Expenditures:</u>				
Operating Expenses--Forms	\$357	\$306	\$187	\$102
Operating Expenses--Mailing	\$1,157	\$1,157	\$1,157	\$1,157
Operating Expenses--Certificates	\$1,496	\$1,232	\$616	\$396
Operating Expenses--Modificatic	\$5,000			
TOTAL Expenditures	\$8,010	\$2,695	\$1,960	\$1,655

Funding of Expenditures:

State Special Revenue (02)	\$8,010	\$2,695	\$1,960	\$1,655
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Revenues:

State Special Revenue (02)	\$8,010	\$2,695	\$1,960	\$1,655
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Department of Revenue**Revenues:**

General Fund (01)	(\$68,709)	(\$127,994)	(\$160,742)	(\$182,601)
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$68,709)	(\$127,994)	(\$160,742)	(\$182,601)
State Special Revenue (02)	\$0	\$0	\$0	\$0

Technical Notes:**Department of Public Health and Human Services**

1. Line 22 states either person wanting to establish a partnership may not be parties to another domestic partnership, civil union, or marriage in this state. It is unclear if this is extended to any State.
2. The following MCA's need to be change to include Domestic Partnership: 50-15-101(17), and (18),) the definition of a Vital Record, 50-15-108 (1), 50-15-121(6), 50-15-122(5)

Department of Revenue

3. Montana's income tax code is tied to federal law in many ways. For example, the definition of taxable income depends on the federal definition of adjusted gross income and itemized deductions allowed by the IRS code. Since the IRS code does not recognize domestic partners, it is not clear that this bill, by itself, would provide the mechanism for Montana to tax domestic partners other than as individuals.
4. Section 5 gives a list of "legal benefits, protections, and responsibilities that apply to parties to a domestic partnership." The list includes "laws relating to taxes imposed by the state or local government." As written, it is not clear how to apply this to taxation. Taxpayers have legal benefits, protections and responsibilities with respect to taxation, but the tax laws themselves are not legal benefits, protections, and responsibilities. It would be clearer if Section 5 stated something like "The parties to a domestic partnership have the same legal benefits, protections, and responsibilities as a married couple with respect to state and local taxes."

*Sponsor's Initials*_____
*Date*_____
*Budget Director's Initials*_____
Date